

NICCY response to the Adoption and Children (Northern Ireland) Bill

25 April 2017

The Office of the Commissioner for Children and Young People (NICCY) was created in accordance with The Commissioner for Children and Young People (Northern Ireland) Order (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland. Under Articles 7(2) and (3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. Under Article 7(4), NICCY has a statutory duty to advise any relevant authority on matters concerning the rights or best interests of children and young persons and it is under the fulfilment of this duty that we make this submission.

The Commissioner's remit includes children and young people up to 18 years, or 21 years, if the young person has a disability or has been in the care of social services. In carrying out her functions, the Commissioner's paramount consideration is the rights of the child or young person, having particular regard to their wishes and feelings. In exercising her functions, the Commissioner has regard to all relevant provisions of the United Nations Convention on the Rights of the Child (UNCRC).

NICCY broadly welcomes the contents of this Bill and warmly notes the references in the bill to the voice of the child, their active participation in proceedings and also the opportunities which arise in the Bill for co-operation across Government Departments, in keeping with the duties set out in the Children's Services Co-operation Act (NI) 2015.

NICCY's work is based on the provisions of the United Nations Convention on the Rights of the Child and we believe that this Bill offers an opportunity for the ethos these rights to be placed on a statutory footing. In particular, Article 3 (Best Interests) and Article 12 (voice of the child) has clear resonance with the direction of this Bill.

The UNCRC also gives useful guidance on the States responsibilities in regard to children's right to their identify (Articles 7 and 8), children who are separated from their parents and their family environment (Articles 9 and 20), privacy rights of children and young people (Article 16), rights to access information (Article 17), the duty on the State to assist parents in the exercise of their parental role (Article 18) and children's right to education (Article 28 and 29).

Most significantly Article 20 relates to Adoption. It is on the basis of these Articles that we provide our advice. We would call on the Department to reflect on these articles when moving forward with this Bill and the associated Regulations which follow.

Freeing for adoption and Adoption Orders are often said to be the most draconian orders that a Court can make in the life of a child. We acknowledge this but also note the positive impact that these orders can have on the life of a child who cannot, for whatever reason, continue to live with their natural parents. It is because of the impacts of these decisions, both positive and negative, that we believe it is imperative that the whole process of care and adoption has the welfare and best interests of the child as the primary consideration. It is our view that the welfare and best interests of the child cannot be served unless they have real and meaningful participation in the decision making process and we welcome the aspects of the Bill which enhance children's input.

We further welcome the provisions regarding advocacy and representation of children in the Court system. We would call on the Department to ensure that robust processes are in place to ensure that children's unfettered voice is sought and heard at all stages of the process, both before, during and after the process of adoption is complete. We acknowledge that this will require a financial commitment on the part of the Department but we would again refer to the provisions of the Children's Service Co-operation Act (NI) 2015 and would call on the Department of Health to use the opportunities offered in this Act to pool resources and to collaborate with other Departments in the interests of the children and families involved.

We note at various points in the Bill and indeed in the consultative questionnaire reference is made to the assessment and subsequent provision for assessed needs of participants in the adoptive process. In some instances such assessment and provision is only instigated at the request of the participant. We would call on the Department to ensure that at all junctures cognisance is given to the potential needs of participants and that innovative ways are used to assess and meet these needs, regardless of whether the participant has requests an assessment or not. We feel that assessing and providing for the needs of parents and the children involved will assist with the fulfilment of their rights.

On a more general point, we would ask the Department to ensure that all of the provisions of this Bill and subsequent Regulations that follow ensure that the families involved are looked at holistically and that the needs of siblings, both natural and adoptive are had regard to at all times.

NICCY looks forward to working with the Department as this Bill makes its way through the legislative process. NICCY is giving this advice based on the information that is before it currently but reserves the right to add to it as developments occur. Particularly, NICCY would be keen to be heard by the Committee when it undertakes its scrutiny role in relation to the relevant individual clauses of this Bill.

Subject to our comments above, we have completed the Questionnaire for responses regarding Chapters 1 and 2 and 4. Our advice regarding Chapter 3 is in text format at the end of the questionnaire.

Part A

Chapter 1: Section 2

Independent Reviewing Officer (IRO) (Pages 13 – 14)

Do you consider that an IRO service should be put in place?

Yes ☒ No ☐ Undecided ☐

If yes, do you consider that such a service should be introduced on a statutory or non statutory basis?

Comments

We agree that an IRO service should be put in place and should be set up on a statutory basis. The review of care plans are crucial in order to ensure that the child's evolving needs are met. Given the importance of Article 12 of the UNCRC we feel that the voice of the child will be heard more strongly in the process through the role of the IRO. We would be keen that the IRO role be clearly defined, to include their powers and responsibilities, in particular their powers to challenge the Trust regarding their decision making or practical application of the care plan. We would be keen to see more details as to how this service would work in practical terms particularly how it would be funded. In expressing our agreement to this service we would hope that it would not operate simply as an additional layer of bureaucracy but that it would be used effectively to oversee the implementation of care plans in a child rights compliant way. The establishment of such a service offers the Department an opportunity to further realise a child's right, under Article 25 of the UNCRC, to have a periodic review of their treatment and placement.

Adoption Support Agencies and Adoption Support Advisers (Page 14-16)

Please provide your views on whether a distinct Adoption Support Adviser role should be established?

We accept that the number of adoptions in Northern Ireland is low however we feel that support and advice for all involved in the process is vital in order to ensure that the process is successful and best meets the needs of the children involved.

While we accept that the current services are well established and are supplemented by voluntary agencies we are concerned around the sustainability of these services, particularly in the era of diminishing budgets. If this service is not established in the Bill, we believe that commitments must be given to continuing to adequately resource these services in the future and further a commitment to periodically review the provision of these services. Further, we would wish to be assured that the support offered, from whatever source and on whatever basis, is not time limited and that those who need support are able to access when it is required. Compliance with Article 17 of the UNCRC regarding a child's right to access to appropriate information and Article 18 regarding the States requirement to assist parents in carrying out their responsibilities would be furthered by ensuring provision such as this is available.

Please also provide your reasons.

See above.

Chapter 1: Section 2

Adoption Support Services (Page 16-17)

Do you consider that the Department should create a duty to provide services assessed as needed?

Yes ☒ No ☐ Undecided ☐

If yes, should such a duty apply in respect of all individuals or be restricted to particular categories of people?

Comments

We absolutely agree that all individuals who are assessed as needing support are provided for. We agree that there should be a duty on the Department to provide such services, at the point of need and within a reasonable time. Such a duty would provide the Department with an opportunity to fulfil Article 17 of the UNCRC regarding a child's right to access to appropriate information, Article 18 regarding the States requirement to assist parents in carrying out their responsibilities. Further, while the duty should rest with the Department of Health there is scope for cooperation with other Departments in terms of delivery under the provisions of the Children's Services Co-operation Act (NI) 2015.

Which categories of people should the duty apply to?

Comments

The duty should apply to all people involved in the process who are assessed as needing such support. We are keen that the support be extended to birth siblings and prospective adoptive siblings also. We believe that a holistic view of the "family" needs to be taken in this regard. Support and services for birth and adoptive families are essential to ensure successful placements and the Department should commit to providing such support at the point of need within a reasonable timeframe. We would call on the Department to ensure that at all appropriate junctures cognisance is given to presenting and future needs, whether an assessment is requested or not and that appropriate provision follows thereafter in a timely fashion.

Chapter 1: Section 2 (Page 17-21)

Special Guardianship Orders)

Do you consider that the introduction of SGOs in the north of Ireland should be strengthened to ensure that children are placed with carers with whom they have a prior relationship, established by living with the carer prior to an SGO being sought?

Yes ☒ No ☐ Undecided ☐

If so, which of the options outlined at paragraph 1.2.22 do you consider should be applied?

We welcome the introduction of Special Guardianship Orders as we acknowledge that some young people will need greater security short of adoption. We particularly acknowledge that older young people and those who have strong bonds with their foster carers or kinship carers would benefit from these orders. A number of issues arise from the introduction of such orders, notably contact with the birth family which will need careful consideration. We accept that difficulties with the process have arisen in England and Wales which provide a valuable opportunity for learning for our system going forward. We welcome the Departments commitment to build on the findings of the 2015 Review in England and Wales to seek to ensure that the SGOs can best meet the needs of the children and young people for whom the order is being sought. We agree that SGOs should not be used as a vehicle to place children and young people with carers who they have no relationships with and that placements should be tested before SGO applications are made. In light of Article 12 of the UNCRC it is imperative that the views of the child are sought at all points of this process and that appropriate weight is attached to these views.

We note your proposal that there could be an overarching condition that no SGO could be applied for until a child has been placed for a certain period. We agree with this in principle but would be keen that there is some flexibility built into the process on a needs basis in order to ensure that the child's specific circumstances and needs are taken into account.

In regard to the position of unaccompanied asylum-seeking children we would draw attention to Section 21 of the Human Trafficking and exploitation (Criminal Justice and Support for Victims) Act (NI) 2015 and would ask the Department to ensure that the role of the Independent Guardian is complementary to the role of the SGO.

Are there any additional requirements you would like to see in place?

In order to ensure that prospective holders of a SGO are properly prepared and supported we believe that the same services should be offered to them as to prospective adopters and not just “on request” as is proposed. There should be a duty to assess prospective SGO holders for support needs and the provision for the needs should also be mandatory.

Special Guardianship Orders: Panels (Page 21-22)

Do you consider that Panel consideration of proposed special guardianship order applications involving looked after children should be established in law?

Yes

☒

No

☐

Undecided

☐

If not, please give your reasons.

Comments:

The independence of the panel is of utmost importance. However, we are concerned that it is proposed that only applications for SGO's for looked after children would be referred to the panel. In our view, all children and young people who are proposed to be subject of an SGO should be referred to the Panel for a best interests decision. While this will inevitably generate more work we believe that given the longevity of these orders and the vulnerability of the young people who will be subject to them that due consideration of the panel is necessary.

Chapter 1: Section 2

Care Plans (Page 23-24)

Do you agree that the Court should be required to consider the permanence provisions of the care plan only?

Yes ☐ No ☒ Undecided ☐

Do you agree with the definition of “permanence provisions” included in clause 122?

Yes ☒ No ☐ Undecided ☐

If not, please give your reasons.

Given that the Court is required to have the welfare and best interests of the child as its primary consideration we are of the view that the Court must consider the care plan as a whole in order to make a determination on welfare.

We are particularly concerned that under this proposal other vital parts of the care plan, notably the educational plan, may lose their impetus.

We do not accept that the proposal to only consider the permanence provisions is the best way to address delay in the process. We believe that with early care planning by the Trust a choate care plan, with the input from all appropriate parties can be developed which will assist the Court in making a best interests decision in a timely manner.

Accommodation of children in need etc. (Page 26-27)

Do you agree that a disabled child being provided with accommodation for respite/short break purposes should not become looked after?

Yes ☒ No ☐ Undecided ☐

If you disagree, please give your reasons and outline how you consider such arrangements should be treated.

Comment:

We would welcome further information as to how “short break” is to be defined. We welcome that children and young people accommodated for safeguarding purposes will continue to be looked after.

Removal of the restriction of making cash payments only in exceptional circumstances (Page 27-28)

Do you agree that the restriction on the making of cash payments in exceptional circumstances should be lifted?

Yes ☒ No ☐ Undecided ☐

If not, please provide your reasons.

Comment:

We would be keen to have further information on how it would be proposed that this money would be accounted for so that its impact could be established. We are conscious not to add layers of bureaucracy or to add additional burdens to parents who are already dealing with difficult situations but it is important that the Trust be able to establish that cash sums are meeting the needs for which they have been given and if not that consideration be given to making direct provision of services instead of cash payments.

General duty of authority to promote educational achievement (Page 28-29)

Do you consider that a HSC Trust should be required to promote a child's educational achievement?

Yes ☒ No ☐ Undecided ☐

Do you consider that, in providing a child with accommodation, a HSC Trust should be required to ensure, so far as is reasonably practicable and consistent with his welfare, that the child's education or training is not disrupted?

Yes ☒ No ☐ Undecided ☐

Are there other measures which could be introduced to support a child's educational achievement?

NICCY welcomes any legislative progress which prioritises the furtherance of the educational achievement of children who are Looked After. We currently await the publication of the Department of Education's policy regarding LAC pupils. We believe that there is a very real opportunity, in keeping with the duties under the Children's Services Co-operation Act (NI) 2015, for the Departments to work together, under the guise of this Bill, to ensure that the educational experience of LAC pupils is enhanced.

The Department will be aware that one of the Commissioners priority areas is educational underachievement and LAC pupils are a key stakeholder in this. We would refer you to our recent publication:

<http://www.niccy.org/publications/2016/november/20/the-right-to-education/>

NICCY would be keen to liaise directly with the Department on this matter and would welcome a meeting to discuss this.

Contact / No Contact Orders (Page 29 – 32)

Do you agree that the duty on a Trust to endeavour to promote contact should not apply where it is assessed that such contact would be contrary to the child's welfare?

Yes ☒ No ☐ Undecided ☐

If not, please explain why.

We believe that every decision, particularly in relation to contact, should have the welfare and best interests of the child at its core as is currently the case under the Children (NI) Order and as required by Article 3 of the UNCRC. Where it has been established to the Courts satisfaction that contact is not in the child's interests then we agree that the duty on the Trust to promote contact should be released. However, the Trust should give particular weight to the views of the child and also to the options which are available for sibling contact which can take place to the exclusion of parents if necessary.

Do you agree with the provision included in the Bill which introduces the two new post-adoption contact orders outlined?

Yes ☒ No ☐ Undecided ☐

If not, please give your views on what, if any, post adoption contact arrangements should be introduced?

As above, all decisions regarding contact should be made against the benchmark of the child's best interests. If a Court has been satisfied that contact should or should not take place, having applied the statutory criteria and balanced the competing interests, then we agree that orders should be made which would offer certainty for the child or young person.

Appointment of Guardians Ad Litem (Page 32)

Do you agree with the proposed amendment to enable Guardians ad Litem to be directly employed, rather than admitted to a Panel?

Yes ☒ No ☐ Undecided ☐

If not, please explain your reasons why.

NICCY are of the view that regardless of the process by which Guardian Ad Litem's are employed it is imperative that they are appropriately skilled and experienced and also subject to a rigorous and responsive Complaints Process should it be required.

Regulation of Fostering Panels and introduction of a review mechanism for an agency's determination in relation to foster parent (Page 33-34)

Do you agree with the proposal to place fostering panels in Northern Ireland on a statutory basis?

Yes ☒ No ☐ Undecided ☐

Comments

We welcome the placing of Fostering Panels on to a statutory footing. We would like more information on how the independent review mechanism would work.

Do you agree with the introduction of an independent review mechanism to enable independent reviews of decisions made by fostering panels?

Yes ☒ No ☐ Undecided ☐

Comments

We would like more information as to how this would operate in practical terms. We believe that it makes sense to join this function with the mechanism for reviewing adoption decision making.

Chapter 2 – Other policy areas on which we wish to consult, with a view to including in the Bill

2.1 Adoption Support Services; Duty to provide information (Page 35-37)

Do you agree that the Bill should be amended to introduce a duty on an adoption authority to provide information about support services?

Yes ☒ No ☐ Undecided ☐

If you do not agree, please give your reasons.

We agree that a duty should be introduced to compel an adoption authority to provide information about support services. We wholeheartedly share the Departments view that all adoptive families who need it should get an assessment of need as early as possible, so that they can be offered the support they need to give the child the best chances in life and provide the best possible support to the adoptive placement. This is in keeping with Article 18 of the UNCRC which requires the State to assist parents to exercise their parental responsibility. There is an opportunity for the agencies to be innovative regarding making information available and to co-operate with other agencies under the Children's Service Co-operation Act (NI) 2015 in relation to dissemination of information

2.2 Provision of accommodation for children by voluntary organisations

Do you agree that Articles 74 and 78A of the Children Order should be repealed?

Yes ☒ No ☐ Undecided ☐

If not please state your reasons and provide any examples of where a voluntary organisation may need to provide accommodation for children without the prior involvement of a HSC Trust

We are content that these Articles should be repealed given they have not been used in such a period.

2.3 Contact between prescribed persons and adopted person's relatives (Page 38 – 40)

Do you agree that the Bill should be amended to enable descendants of adopted people to access records and intermediary services?

Yes ☒ No ☐ Undecided ☐

If you think such descendants should not be allowed access, please provide your reasons.

We believe that it is imperative that the descendants of adopted people should be able to access records and intermediary services. The UNCRC is clear, at Article 8, that the State should respect the right of children to preserve his or her identity and ensuring that a child who is a descendant of an adopted person has the ability to access records will assist with the fulfilment of that right.

2.4 Dually Approved Carers (Page 40-42)

Do you agree that a duty should be placed on adoption agencies in the north of Ireland to consider the placement of a child with dually approved carers?

Yes ☒ No ☐ Undecided ☐

If you do not agree, please provide your reasons.

We agree that a duty should be placed on agencies to consider the placement of a child with dually approved carers when it is considering adoption. We agree in the hope that it will reduce the number of moves that a child has to make before achieving permanence and in order to allow the prospective adopters to access leave entitlements which will give them time to assist the young person to settle in to their new home. Again we would call for the carers to be assessed at an early point regarding support needs and for provision to follow thereafter.

2.5 Private Fostering (43-46)

Do you agree that the Children Order should be amended, as outlined in consultation, to include children who are proposed to be privately fostered?

Yes ☐ No ☐ Undecided ☒

If you do not agree, please give your reasons.

NICCY recognise the balance that needs to be struck between ensuring that there are appropriate safeguards in place regarding private fostering arrangements and having the flexibility for private foster carers, for example family members, to look after children. NICCY are keen that, in the best interest of the child, a regime is agreed which allows for the child to be adequately protected but also is flexible to meet the changing needs of families and children.

Do you agree that the Children Order should be amended to include powers to make regulations:

- in respect of the carrying out of an authority's duty in relation to privately fostered children?
- to require an authority to monitor the way in which it discharges its functions?

Yes ☒ No ☐ Undecided ☐

If not please give your reasons.

Are there any other provisions relating to privately fostered children that you would like to see introduced?

2.6 Northern Ireland Adoption and Children Act Register (Page 46-47)

Please give your views on whether prospective adopters should be allowed to search and inspect the NI Adoption and Children Act Register, when established in law?

We share the concerns of the Department regarding the risk of identification of young people if access to the Register were opened to prospective adopters. We would be keen to be updated on the outcome of the pilot in England and to consider our position again in light of this.

Northern Ireland Guardian Ad Litem Agency (NIGALA) – proposed change of name (Page 47- 49)

Do you agree that the name of the Guardian Ad Litem should be retained?

Yes ☐ No ☒ Undecided ☐

If so, why?

Children and young people have clearly stated via the engagement with them their wish for the Agency to be renamed the Northern Ireland Children's Court Guardian Agency and for the individuals to be known as Children's Court Guardians. In furtherance of Article 12 of the UNCRC we believe that the name should be changed to reflect the wishes of the young people who are impacted by the Agency.

If you think that the name should be changed, do you agree that it should be changed to the Children's Court Guardian (with the Northern Ireland Guardian ad Litem Agency becoming known as the Northern Ireland Children's Court Guardian Agency)?

Yes ☒ No ☐ Undecided ☐

If you do not agree with the name proposed, please provide any alternative suggestions?

2.8 Kinship Care Orders (Page 49-52)

Do you consider that a Kinship Care Order should be introduced in the north of Ireland?

Yes ☒ No ☐ Undecided ☐

If subject to a Kinship Care Order, should an allowance be paid?

Yes ☒ No ☐ Undecided ☐

If yes, should it be equivalent to a fostering allowance?

Yes – given that equivalent functions are being performed by kinship carers as foster carers the payments should be equivalent.

Should it be subject to means testing?

Yes ☐ No ☒ Undecided ☐

In addition to allowances paid to kinship carers who provide care to children who are looked after, do you consider that allowances should be payable to kinship carers who provide care to children who are not looked after but who are subject to an Article 8 Order (a Kinship Care Order, if introduced), and are or were:

- previously looked after;
- placed with involvement from the HSC Trust; or
- at risk of becoming looked after

Yes ☒ No ☐ Undecided ☐

Comments

See above

2.9 Corporate Parenting (Page 53-55)

Do you consider that Corporate Parenting should be introduced in legislation in the north of Ireland?

Yes ☒ No ☐ Undecided ☐

If so, should statutory corporate parenting here be guided by the statutory principles set out in the Children and Social Work Bill?

The ethos of the statutory principles appear to be in keeping with the broad principles of the UNCRC and as such we are satisfied with them. However, we would be keen to see a specific principle including regarding commitment to promoting and supporting the education of the child or your person.

Should the responsibility of corporate parent be extended to bodies other than HSC bodies, similar to the approach taken in Scotland?

Yes ☐ No ☐ Undecided ☒

If yes to the above, which bodies should corporate parenting extend to?

NICCY are keen that all bodies, statutory or otherwise, adopt a whole child approach to wellbeing and collaborate to ensure the rights and best interests of the child are served. The Children's Services Co-operation Act (NI) 2015 provides a framework within which this can happen.

If no to the above, please give your reasons.

2.10 Approved Home Childcarers (Page 55-56)

Do you agree that a power should be taken to introduce voluntary 'childcare' registration schemes in the north of Ireland?

Yes ☐ No ☒ Undecided ☐

Comments

In the interests of safeguarding we are of the view that all forms of childcare should be subjected to mandatory registration.

2.11 Childcare Agencies (Page 56-58)

Do you agree that the Department should take a power to introduce and regulate childcare agencies in the north of Ireland?

Yes ☒ No ☐ Undecided ☐

If introduced, should the HSC Trusts or the RQIA be responsible for the regulation of childcare?

HSC Trusts

Do you agree that the definition of a nanny, provided in Article 119(4) and (6) of the Children Order, should be amended to include those employed by agencies?

Yes ☒ No ☐ Undecided ☐

Comments

We are of the view that both nannies and childminders employed by agencies should be registered and that this anomaly should be rectified through legislative change.

2.12 Extending Care for Care Leavers

Do you consider that the GEM scheme should be placed on a statutory footing?

Yes ☒ No ☐ Undecided ☐

If not please explain.

Do you consider that some services should be extended here to include care leavers up to the age of 25, on request?

Yes ☒ No ☐ Undecided ☐

If not, please explain.

2.13 Children Order Annual Report

Do you consider that Article 181 of the Children Order should continue to apply, be repealed or amended?

Apply ☐ Repeal ☐ Amend ☒

If you consider that reporting under Article 181 of the Children Order should be retained, please advise how frequently the Department should be required to provide such a report.

We are of the view that a Report could be produced every 3 years. The other reporting mechanisms cover some but not all of the information that would be captured under an Article 181 Report and 3 yearly would not be onerous on the Department while still providing useful statistical information which can be used in subsequent planning. There may be an opportunity to link this reporting cycle with the reporting cycles required under the Children's Service Co-operation Act (NI) 2015. .

2.14 Personal Education Plans

PEPs are a statutory requirement in Britain. Do you consider that PEPs should also be placed on a statutory footing in the north of Ireland?

Yes ☒ No ☐ Undecided ☐

If not, please explain.

NICCY is strongly supports the proposal to make PEPs a statutory requirement. We believe that through the process of developing and reviewing PEPs for individual children their educational needs will be prioritised and therefore realised in a more tangible way.

2.15 Further suggested amendments

Are there any other amendments that you think should be considered for inclusion in the Bill? If so, please provide details and the reason why such amendments should be included at this time.

NICCY's founding legislation requires us to prepare a report on the functionality of our legislation every 3 years. We have provided such a report in May 2013. In that report, inter alia, we called for our legislation to be amended to remove certain restrictive clauses which, in our view, hinder our ability to fully champion children's rights. We believe that this Bill could be the legislative vehicle by which our own legislation could be amended in order to allow us to more fully meet our statutory functions.

Chapter 3: Children's Partnership Arrangements

Chapter 3

Introduction

NICCY supported the introduction of the Children's Services Co-operation Act (Northern Ireland) 2015 (CSCA). As the statutory body tasked with safeguarding and promoting the rights of children and young people, we believe that this Act will play a critical contribution to the realisation of children's rights in Northern Ireland. The UN Committee on the Rights of the Child published its General Comment (5), General Measures of Implementation of the Convention on the Rights of the Child in 2003. Within the comment the Committee identify key structures and process to ensure the implementation of children's rights. They include:

- A National Strategy for children
- Co-ordination
- Child impact assessment and evaluation
- Data collection and development of indicators
- Making children visible in budgets
- Co-operation with civil society

It is clear that the CSCA is rooted in General Comment 5 but can only be effective if thoroughly implemented. Therefore we broadly welcome the proposals outlined in chapter 3 of this consultation.

Proposals

NICCY supports the intention of the Department to place the Children and Young People's Strategic Partnership (CYPSP) on a statutory footing and acknowledges the central role the partnership can play in supporting government departments and agencies to effectively deliver on their obligations under the CSCA. The CSCA provides significant opportunities for the planning, delivery and coordination of services to children and families to better meet their needs in a manner consistent with realisation of their rights across the eight outcome areas.

Following the 2016 Review of the Safeguarding Board for Northern Ireland (SBNI) undertaken by Professor Jay, NICCY welcomed the Department's commitment in accepting all the Review recommendations to ensure SBNI is properly placed to protect children and young people.

We note that the current consultation, while indicating the policy intent of the Department, does not provide detailed proposals on these matters and that no

provisions concerning chapter three of the consultation document are provided within the draft Bill. Therefore whilst NICCY will be providing advice and comment on the policy intent, we look forward to engaging with the department in regard to the detail of the legislation which will be required.

NICCY supports the intent to bring child protection partnership arrangements under the auspices of the independent RCYPSP but recognises that substantial changes to the Safeguarding Board Act (NI) 2011 and accompanying regulations will be required.

Structures

NICCY supports the following proposals which we have re-ordered to reflect the sequence of development:

1. Place the CYPSP on a statutory basis, to be known as the Regional Children and Young People's Strategic Partnership (RCYPSP);
2. Establish a Regional Child Protection Partnership (RCPP) in place of the SBNI;
3. Make the RCPP a statutory sub-committee of the RCYPSP
4. Establish Local Child Protection Panels (LCPPs), organised within each of the HSC Trust areas, in place of Safeguarding Panels;
5. Place responsibility for preventative safeguarding with the RCYPSP;
6. Empower the RCYPSP to establish other regional sub-committees to sit alongside the RCPP;
7. Require the RCPP to establish a Practice Learning Sub-Committee, in place of the existing CMR Panel of the SBNI;

In relation to the remaining 2 proposals concerning the structure, NICCY suggests that consideration should be given to the extent to which they proscribe the sub-structures of the RCYSP or as suggested that the RCYPSP should be empowered to establish any sub-committees as it deems necessary which may include outcomes groups, regional sub-groups, locality planning groups and sub-committees of the RCPP.

Membership

- RCYPSP
We endorse the proposals for membership of the RCYPSP to include those organisations outlined in article 9 of the CSCA but would recommend that it is explicitly stated that there is sufficient representation from civil society

organisations. We also believe that in order to ensure corporacy the Chair of the RCPP is a member of the RCYPSP.

We believe that the RCYPSP should be independently chaired and are content with the proposals outlined in paragraph 3.18

- **RCPP**

NICCY believes that membership of the RCPP as outlined in Article 1(3) of the Safeguarding Board Act (NI) 2011 is sufficient and but would reiterate the point made above that “other relevant persons or bodies...” must include civil society organisations as mandated by General Comment 5 of the UNCRC. .

The role of the Chair will be to ensure that the core purpose of the RCPP is realised which should be akin to what was envisaged by article 2(1) of the Safeguarding Board (NI) Act, 2011 “to co-ordinate and ensure of the effectiveness of what is done by each person or body represented on the Board” We believe that expecting a member of the RCPP to undertake this role whilst representing their own organisations interests is an almost impossible task. Therefore NICCY does not endorse the Department’s proposals as outlined in para 3.21 and would strongly recommend that the RCYPSP appoints an independent chair of the RCPP and LCPPS.

Objectives

NICCY endorses the objective of the RCYPSP and welcomes the intent that this will be measured by the 8 outcomes of the CSCA. In turn we believe that the RCPP’s objective should be closely aligned to the outcome concerning safety and stability. Whilst we agree that the RCPP’s work should be refocused to address child protection reference to co-ordination and effectiveness as outlined in the Safeguarding Board (NI) Act, 2011 (see above) must be maintained.

Functions of RCYPSP and RCPP

NICCY broadly welcomes the functions of each body as outlined in the consultation but is unable to provide detailed comment until we see legislative proposals. However we believe that there is insufficient clarity with regards to relationship between RCYPSP and RCPP and suggest that this is clearly articulated in the legislation. Arrangements for monitoring the work of RCYPSP must be made clear alongside the reporting arrangements to the Department of Health and the NI Executive in general.

During this process the Department should clearly identify where SBNI's primary or secondary legislation may be amended or repealed. NICCY notes that the Department should seek to ensure a strong, independent, multiagency body with a statutory underpinning is in place to ensure the effectiveness of child protection arrangements in Northern Ireland. It is vitally important to ensure stability and continuity in safeguarding arrangements in any period of change or transition. We note that this includes changes associated with the proposed dissolution of the Health and Social Care Board.

Part B

Chapter 4 – Assessment of Impact

Equality Impact Assessment

Are you aware of any indication or evidence – qualitative or quantitative – that the proposals as set out in this consultation may have an adverse impact on equality of opportunity or on good relations between people of different religious belief, political opinion or racial group?

Yes ☐ No ☒ Undecided ☐

If yes, please provide comment on what you think should be added or removed to alleviate the adverse impact.

Is there an opportunity to better promote equality of opportunity or good relations between people of different religious beliefs, political opinion or racial group?

Yes ☐ No ☒ Undecided ☐

If yes, please give details as to how.

Are there any aspects of these recommendations where potential human rights violations may occur?

Yes ☒ No ☐ Undecided ☐

If yes, please give details

Given the subject matter of care and adoption it is inevitable that human rights will be engaged and that there is potential for violations to occur. However, the development of robust decision making systems and review and redress mechanisms will assist in ensuring that there are checks and balances in place to ensure that any potential infringements are justified and necessary.

Regulatory Impact Assessment

A Regulatory Impact Assessment is being prepared on those consultation proposals that may have a regulatory impact on business, charities or voluntary bodies.

Comments

Do you foresee any unintended consequences as a result of the introduction of these proposals?

Yes ☐ No ☒ Undecided ☐

If yes, please provide further details.

CONSULTATION RESPONSE QUESTIONNAIRE

Background

The aim of the consultation is to seek views on the detail of the Bill. The paper also highlights legislative reform relating to adoption and children which has taken place in Scotland, England and Wales over the last decade and seeks views on whether these reforms should be implemented in the north of Ireland.

Questionnaire

The questionnaire can be completed by a member of the public or it can be completed on behalf of a group or organisation. Part A provides an opportunity to answer questions relating to specific recommendations that are made throughout the consultation. Part B provides an opportunity for respondents to give additional feedback relating to any equality, human rights or regulatory impacts of the recommendations that are contained in Chapter 4.

Freedom of Information Act 2000 – Confidentiality of Consultations

The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. **Before** you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

The Freedom of Information Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity should be made public or be treated as confidential.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. For further information about confidentiality of responses please contact the Information Commissioner's Office or see their web site at: <https://ico.org.uk>

I am responding: as an individual ☐

On behalf of an organisation (please tick box) ☒

Name (print): Colette Donaghy

Job Title: Senior Legal & Investigations Officer

Organisation (name and service provided): Northern Ireland Commissioner for Children and Young People

Address: Equality House, 7-9 Shaftesbury Square, Belfast, BT2 7DP

Tel: 028 90 311616

E-mail: Colette@niccy.org

Date: 24 April 2017

RESPONSES MUST BE RECEIVED NO LATER THAN 5pm on Monday 10th April 2017

**In writing to: Family and Children's Policy Directorate
Department of Health
Room A3.3, Castle Buildings
BELFAST
BT4 3SQ**

Tel: (028) 90522169

Or by email to: adoption@health-ni.gov.uk

